

Senate File 465 - Introduced

SENATE FILE 465

BY QUIIRMBACH

A BILL FOR

- 1 An Act relating to the awarding of contracts for public
- 2 improvement projects.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 26.7, subsection 2, Code 2019, is amended
2 to read as follows:

3 2. The notice to bidders may provide that bids will be
4 received for the furnishing of all labor and materials and
5 furnishing or installing equipment under one contract, or for
6 parts thereof in separate sections. If the notice provides for
7 bids for separate parts of a project, the notice shall also
8 provide that bids shall be accepted for any combination of
9 parts, including for the whole project.

10 Sec. 2. Section 26.9, subsection 1, Code 2019, is amended
11 to read as follows:

12 1. The contract or contracts for the public improvement
13 must be awarded to the ~~lowest responsive~~, responsible bidder or
14 combination of responsible bidders whose bid or bids minimize
15 the total cost of the award. However, contracts relating to
16 public utilities or extensions or improvements thereof, as
17 described in [sections 384.80 through 384.94](#), may be awarded by
18 the city as it deems to be in the best interests of the city.
19 This section shall not be construed to prohibit a governmental
20 entity in the award of a contract for a public improvement
21 or a governing body of a city utility from providing, in the
22 award of a contract for a public improvement, an enhancement
23 of payments upon early completion of the public improvement if
24 the availability of the enhancement payments is included in the
25 notice to bidders, the enhancement payments are competitively
26 neutral to potential bidders, the enhancement payments are
27 considered as a separate item in the public hearing on the
28 award of contract, and the total value of the enhancement
29 payments does not exceed ten percent of the value of the
30 contract.

31 Sec. 3. Section 26.10, subsection 1, Code 2019, is amended
32 to read as follows:

33 1. The date and time that each bid is received by the
34 governmental entity, together with the name of the person
35 receiving the bid, shall be recorded on the envelope containing

1 the bid. All bids received after the deadlines for submission
 2 of bids as stated in the project specifications shall not be
 3 considered and shall be returned to the late bidder unopened.
 4 The governmental entity shall open, announce the amount of the
 5 bids, and file all proposals received, at the time and place
 6 specified in the notice to bidders. The governmental entity
 7 may, by resolution, award the contract or contracts for the
 8 public improvement to the bidder or combination of responsible
 9 bidders submitting the lowest ~~responsive~~, total responsible bid
 10 or bids to minimize the total cost of the award, determined
 11 as provided in [section 26.9](#), or the governmental entity
 12 may reject all bids received, fix a new date for receiving
 13 bids, and order publication of a new notice to bidders. The
 14 governmental entity shall retain the bid security furnished by
 15 the successful bidder until the approved contract form has been
 16 executed, a bond has been filed by the bidder guaranteeing the
 17 performance of the contract, and the contract and bond have
 18 been approved by the governmental entity. The provisions of
 19 chapter 573, where applicable, apply to contracts awarded under
 20 this chapter.

21 Sec. 4. Section 26.14, subsection 3, paragraphs a and b,
 22 Code 2019, are amended to read as follows:

23 a. When a competitive quotation is required, the
 24 governmental entity shall make a good faith effort to obtain
 25 quotations for the work from at least two contractors regularly
 26 engaged in such work prior to letting a contract. Good
 27 faith effort shall include advising all contractors who have
 28 filed with the governmental entity a request for notice of
 29 projects. The governmental entity shall provide such notice
 30 in a timely manner so that a requesting contractor will have
 31 a reasonable opportunity to submit a competitive quotation.
 32 If the notice provides for quotations for separate parts of a
 33 project, the notice shall also provide that quotations shall
 34 be accepted for any combination of parts, including for the
 35 whole project. Quotations may be obtained from contractors

1 after the governmental entity provides a description of the
2 work to be performed, including the plans and specifications
3 prepared by an architect, landscape architect, or engineer, if
4 required under [chapter 542B](#), [544B](#), or [544A](#), and an opportunity
5 to inspect the work site. The contractor shall include in
6 the quotation the price for labor, materials, equipment, and
7 supplies required to perform the work. If the work can be
8 performed by an employee or employees of the governmental
9 entity, the governmental entity may file a quotation for the
10 work to be performed in the same manner as a contractor. If the
11 governmental entity receives no quotations after making a good
12 faith effort to obtain quotations from at least two contractors
13 regularly engaged in such work, the governmental entity may
14 negotiate a contract with a contractor regularly engaged in
15 such work.

16 **b.** The governmental entity shall designate the time, place,
17 and manner for filing quotations, which may be received by
18 mail, facsimile, or electronic mail. The governmental entity
19 shall award the contract or contracts to the contractor or
20 contractors submitting the lowest ~~responsive~~, total responsible
21 quotation or quotations to minimize the total cost of the
22 award subject to [section 26.9](#), or the governmental entity may
23 reject all of the quotations. The unconditional acceptance and
24 approval of the lowest responsive, responsible quotation shall
25 constitute the award of a contract. The governmental entity
26 shall record the approved quotation in its meeting minutes.
27 The contractor awarded the contract shall not commence work
28 until the contractor's performance and payment bond has been
29 approved by the governmental entity. A governmental entity
30 may delegate the authority to award a contract, to execute
31 a contract, to authorize work to proceed under a contract,
32 or to approve the contractor's performance and payment bond
33 to an officer or employee of the governmental entity. A
34 quotation approved outside a meeting of the governing body of
35 a governmental entity shall be included in the minutes of the

1 next regular or special meeting of the governing body.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill relates to the awarding of contracts for public
6 improvement projects.

7 The bill provides that if a governmental entity states
8 in a notice that the governmental entity is accepting bids
9 or quotations for multiple parts of a project for public
10 improvement, then the entity shall accept bids or quotations
11 for any combination of parts of the project, including bids
12 or quotations for the whole project. Under the bill, the
13 governmental entity shall award a contract or multiple
14 contracts to the combination of bidders or contractors that
15 minimizes the total cost of the award.